IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2525 OF 2005

Prakash N.Mhatre. ... Petitioner

Versus.

The State of Maharashtra & others. ... Respondents.

Shri Vijay Gharat for the Petitioner.

Ms.M.M.Mhatre, A.P.P. for the Respondents.

CORAM : ABHAY S. OKA, J.

DATED : 17th October, 2005.

P.C.:

1. Rule. The learned A.P.P. waives service for the Respondents. Taken up for hearing forthwith.

2. The grievance of the Petitioner is that he has preferred a statutory appeal before the State for challenging the order of externment passed under the Bombay Police Act, 1951 and the prayer for interim relief made in the Appeal is not being heard. It is pointed out that the Appeal was preferred on 21st September 2005 which was fixed for hearing on 7th October 2005.

3. On 7th October 2005 the Appeal could not be heard as the Appellate Authority was not available and now the next date fixed in the Appeal is 8th November 2005. The grievance is that the Petitioner is suffering prejudice as his prayer for interim relief is not being

considered by the Appellate Authority. The prayer made in this petition is for directing the State Government to hear the Appeal expeditiously.

4. The learned A.P.P. did not dispute that the next date of hearing is 8th November 2005. If the Appeal preferred by the Petitioner cannot be heard immediately, in my view, the prayer made by the Petitioner in the said appeal for interim relief ought to have been considered as the order of externment affects the personal liberty of the Petitioner. Hence the hearing as to the interim relief cannot be postponed till 8th November 2005.

5. As the hearing of the Appeal is postponed to 8th November 2005, the Petitioner is at liberty to make a fresh application before the State Government for appropriate interim relief. If such an application is made within a period of one week, the same shall be decided by the Appellate Authority within a period of one week from the date of filing of such application.

6. Hence the following order is passed:

i) If an application is made by the Petitioner within a period of one week from today seeking appropriate interim relief pending the final disposal of the

Appeal, appropriate orders shall be passed on the said application within a period of one week from the date of filing of the Application.

ii) All contentions of the parties in the pending appeal are expressly kept open.

iii) Rule is made absolute in the above terms.

iv) The parties and the authorities concerned to act on an authenticated copy of this order.

Judge.